

## CHAPTER 1011

### ILLEGAL USE OF SCANNING DEVICES OR ENCODING MACHINES

H.F. 2199

**AN ACT** relating to the criminal offenses of the illegal use of a scanning device or encoding machine and criminal mischief in the third degree, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. [Section 715A.10](#), Code 2018, is amended to read as follows:

**715A.10 Illegal use of scanning device or ~~reencoder~~ encoding machine.**

1. A person commits a class “D” felony if the person does any of the following:

a. ~~Uses~~ Directly or indirectly uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on ~~the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card, and with the intent to defraud the authorized user,~~ the issuer of the authorized user’s payment card, or a merchant.

b. ~~Uses a reencoder~~ Directly or indirectly uses an encoding machine to place information encoded on ~~the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card without the permission of the authorized user of the payment card from which the information is being reencoded was obtained, and with the intent to defraud the authorized user,~~ the issuer of the authorized user’s payment card, or a merchant.

1A. A person commits an aggravated misdemeanor if the person possesses a scanning device with the intent to use such device to obtain information encoded on a payment card without the permission of the authorized user of the payment card, the issuer of the authorized user’s payment card, or a merchant, or possesses a scanning device with knowledge that a person other than the authorized user, the issuer of the authorized user’s payment card, or a merchant intends to use the scanning device to obtain information encoded on a payment card without the permission of the authorized user, the issuer of the authorized user’s payment card, or a merchant.

2. A second or subsequent violation of [this section](#) is a class “C” felony.

3. As used in [this section](#):

a. “Encoding machine” means an electronic device that is used to encode information onto a payment card.

~~a.~~ b. “Merchant” means an owner or operator of a retail mercantile establishment or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A “merchant” also means includes an establishing financial institution referred to in [section 527.5](#), a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.

~~b.~~ c. “Payment card” means a credit card, charge card, debit card, access device as defined in [section 527.2](#), or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

~~c.~~ “Reencoder” means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.

~~d.~~ “Scanning device” means a scanner, reader, wireless access device, radio frequency identification scanner, an electronic device that utilizes near field communications technology, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

Sec. 2. [Section 716.5, subsection 1](#), Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* The act is committed upon property that consists of a device that has the ability to process a payment card as defined in [section 715A.10](#).

Approved March 15, 2018